

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ENTESAR OSMAN KASHEF, *et al.*,

Plaintiffs,

HALEIMA NASRALDEN ABDELMAWLA
SHERF, *et al.*,

Plaintiffs,

ROSA BOL RING, *et al.*,

Plaintiffs,

DENG YEL AKOL DENG, *et al.*,

Plaintiffs,

ABDELBARI ELTIGANI MOHAMED
ADAM, *et al.*,

Plaintiffs,

NABEEL A KHAMIS, *et al.*,

Plaintiffs,

NOEL JADA LAKO, *et al.*,

Plaintiffs,

-against-

BNP PARIBAS S.A., BNP PARIBAS S.A.
NEW YORK BRANCH, and BNP PARIBAS
US WHOLESALE HOLDINGS, CORP.,

Defendants.

No. 1:16-cv-03228-AKH-JW

No. 1:23-cv-04986-AKH

No. 1:23-cv-5552-AKH

No. 1:23-cv-07468-AKH

No. 1:24-cv-3639-AKH

No. 1:24-cv-03640-AKH

No. 1:24-cv-03641-AKH

Hon. Alvin. K. Hellerstein

**PLAINTIFFS' STATUS REPORT
AND REQUEST TO STAY INDIVIDUAL CASES**

STATUS REPORT AND REQUEST TO STAY INDIVIDUAL CASES

Plaintiffs in the above-captioned cases of *Entesar Osman Kashef, et al. v. BNP Paribas S.A. and BNP Paribas US Wholesale Holdings, Corp.* (the “Class Action”); *Haleima Nasralden Abdelmawla Sherf, et al. v. BNP Paribas S.A., BNP Paribas S.A. New York Branch, and BNP Paribas US Wholesale Holdings, Corp.*; *Rosa Bol Ring, et al. v. BNP Paribas S.A., BNP Paribas S.A. New York Branch, and BNP Paribas US Wholesale Holdings, Corp.*; *Deng Yel Akol Deng, et al. v. BNP Paribas S.A., BNP Paribas S.A. New York Branch, and BNP Paribas US Wholesale Holdings, Corp.*; *Abdelbari Eltigani Mohamed Adam, et al. v. BNP Paribas S.A., BNP Paribas S.A. New York Branch, and BNP Paribas US Wholesale Holdings, Corp.*; *Nabeel A Khamis, et al. v. BNP Paribas S.A., BNP Paribas S.A. New York Branch, and BNP Paribas US Wholesale Holdings, Corp.*; and *Noel Jada Lako, et al. v. BNP Paribas S.A., BNP Paribas S.A. New York Branch, and BNP Paribas US Wholesale Holdings, Corp.* (together, without the Class Action, the “Individual Actions”), in response to the Court’s May 20, 2024 Order (ECF No. 511), respectfully submit the following status report and request to stay the Individual Actions for 120 days.

The Individual Actions filed in 2023 (*Sherf*, *Ring*, and *Deng*) were filed out of an abundance of caution on behalf of members of the Class Action Plaintiffs’ then-proposed class while the class certification motion was still pending, to protect the individual plaintiffs’ rights in the event the motion for class certification may be denied.¹ *Sherf* and *Ring* were stayed following Parties’ joint stipulations on August 9, 2023.

¹ Until a possible denial of class certification, the limitations period would have remained tolled for all class members under the doctrine of class action tolling in *American Pipe & Construction Co. v. Utah*, 414 U.S. 538, 554 (1974). If the limitations period had begun to run again class members might have had very limited time to bring a separate claim and still be within the limitations period. The Second Circuit held in this case that “[b]ecause BNPP’s judgment of conviction was entered on May 1, 2015 and the Plaintiffs’ civil action was filed on April 29, 2016, the Adult Plaintiffs’ claims are timely under [N.Y.C.P.L.R.] § 215(8)(a),” which states that “the plaintiff shall have at least one year from the termination of the criminal action as defined in section 1.20 of the criminal procedure law in which to commence the civil action notwithstanding that the time in which to commence such action has already expired or has less than a year remaining.” *Kashef* [*v. BNP Paribas S.A.*], 925 F.3d [53,] 62-63 [(2d Cir. 2019)].

On May 9, 2024, the Court certified a class including refugees and asylees and excluding those who entered the United States on other visas (e.g. diversity visas). Due to the amendment of the class definition, several other former putative class members represented by Co-Lead Class Counsel were no longer members of the Class (*i.e.*, non-refugee or asylee U.S. citizens or lawful permanent residents who suffered human rights abuses by the Government of Sudan between November 1997 and December 2011). To preserve their rights, including under potentially applicable statutes of limitations, on May 11, 2024 Class Counsel filed the 2024 Individual Actions (*Adam*, *Khamis*, and *Lako*). Due to time limitations, the 2024 Individual Actions were necessarily over-inclusive and likely included both refugees/asylees and visa recipients.²

Consequently, the resulting six cases that comprise the Individual Actions contain a combination of Class Members and individuals who are no longer members of the Class. Class Counsel hereby request that the stay of the *Ring* and *Sherf* matters be extended for an additional 120 days, and upon effecting service of the *Adam*, *Khamis*, and *Lako* complaints, Class Counsel will request a stay of all the newly filed complaints.³

Class Counsel has commenced the process of contacting the 522 plaintiffs included in the Individual Actions to confirm whether they are refugees or asylees, and for those who are neither, to offer the option of their considering new counsel to proceed on a mass tort track following the Class Trial. Presently, Class Counsel has confirmed the refugee/asylee status for approximately 248 plaintiffs in the Individual Actions. Approximately 120 of those 248 plaintiffs are not refugees or asylees.

² Prior to filing the 2024 Individual Actions, Class Counsel met and conferred with counsel for the BNP Paribas Defendants, specifically asking for a stipulation to allow additional time to conduct the appropriate logistical and ministerial functions to assist these individual clients in considering new counsel and/or in bringing individual claims. BNPP declined that request.

³ Defendants must be served with the 2024 Individual Actions by August 12, 2024. FRCP 4(m).

In light of these ongoing efforts, Class Counsel estimates that an additional 120 days will be needed to identify which filed individuals are refugees and asylees,⁴ at which point those individuals will proceed as part of the Class. They will continue to be represented by Class Counsel.

Following this identification process and after service has been effected, Class Counsel intends to request that the filed actions for non-refugees or asylees be stayed pending the conclusion of the Class Trial for two reasons—for those individuals to (1) have the opportunity to seek representation independent from Class Counsel and (2) be included in the planned mass tort process to assess individual aggravating injuries following the Class Trial.

Class Counsel is available to answer further questions the Court may have at the June 24, 2024 Conference.

Dated: June 20, 2024

Respectfully submitted,

/s/ Kathryn Lee Boyd

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⁴ Class Counsel reserves the right to request additional time if confirmations are outstanding.

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